

REMARKS

The applicant respectfully requests reconsideration in view of the amendment and the following remarks. Support for newly added claim 13 can be found in the original claims 1, 3 and 12. Support for newly added claims 14-20 can be found in the original claims 4-10. Support for newly added claim 21 can be found in claim 11 and in the specification in example 1.

The applicant has enclosed a copy of the certified translation of the applicant's priority document.

Claims 1 and 3-11 were rejected under 35 USC 102 (b) as being anticipated by Paleta et al. (Collection Czechoslov. Chem. Commun. 35, 1970, 1304-1305) ("Paleta"). Claims 1-12 were rejected under 35 USC 103 (a) as being unpatentable over Paleta et al. in view of Cordier et al. (US 6,509,495) ("Cordier"). The applicant respectfully traverses these rejections.

102 Rejection

The Examiner has rejected claims 1 and 3-11 as being anticipated by Paleta. The applicant has incorporated claim 12 into claim 1 therefore the rejection of claims 1 and 3-10 should be withdrawn.

With respect to claim 11, the applicant has rewritten claim 11 as newly added claim 21. Claim 21 requires an azeotrope of methyl difluoroacetate and methanol with a consistant boiling point of 64 °C at ambient pressure. Paleta discloses fraction distilling up to 80 °C (see page 1305 of Paleta). The applicant does not believe that Paleta teaches an azeotrope of methyl difluoroacetate and methanol with a constant boiling point of 64 °C at ambient pressure. For the above reasons, this rejection should be withdrawn.

103 Rejection

Claims 1-12 were rejected as being unpatentable over Paleta in view of Cordier. As the Examiner correctly stated, Paleta does not disclose nor teach using chlorine as X. The Examiner has relied upon the teaching of Cordier for this. However, the applicant claims a process for producing an ester or diester.

Cordier teaches a process for a salt and not an ester (see col. 3, lines 24-26). The applicant does not believe that Cordier is a combinable patent.

Furthermore, Paleta teaches away from using X as chlorine. Paleta was clearly aware of chlorine but did not consider important since he did not include it in this work. Specifically at page 1303, starting at line 3, Paleta stated,

“The methyl ester of difluoroacetic acid(IV) was prepared by reduction of ester *IIIc* with zinc, analogously as we described²⁹ earlier in the case of fluorochloroalkanes.” (emphasis added)

Therefore, Paleta was aware of chlorine but did not believe that it was important compared to Br. Therefore, Paleta teaches away from Cl. For the above reasons, this rejection should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14558-00001-US from which the undersigned is authorized to draw.

Dated: January 2, 2008

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, Delaware 19899
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

Enclosure: Certified Translation Of The Applicant's Priority Document

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A two month extension fee has been paid. Applicant believes no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14558-00001-US from which the undersigned is authorized to draw.

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